

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-60153

BENNIE WHITEHEAD; ET AL

Plaintiffs

versus

FOOD MAX OF MISSISSIPPI, INC; ET AL

Defendants

K MART CORPORATION

Defendant-Appellee

versus

PAUL S MINOR

Appellant

- - - - -
Appeal from the United States District Court for the
Southern District of Mississippi
- - - - -

(Opinion January 11, 2002, 5 Cir., 2002, _____F.3d____)

(September 30, 2002)

BEFORE: KING, Chief Judge, JOLLY, HIGGINBOTHAM, DAVIS, JONES,
SMITH, WIENER, BARKSDALE, EMILIO M. GARZA, DeMOSS,
BENAVIDES, STEWART, DENNIS and CLEMENT, Circuit Judges.¹

BY THE COURT:

A majority of judges in active service having
determined, on the Court's own motion, to rehear this case en
banc,

IT IS ORDERED that this cause shall be reheard by the
Court en banc with oral argument on a date hereafter to be fixed.
The Clerk will specify a briefing schedule for the filing of
supplemental briefs.

¹Judge Robert M. Parker is recused and did not participate in
this decision.